HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.24597 of 1997

Dated 2nd day of February, 2007

Between:

Dandu Laxmanna
and four others
.. Petitioners

And

The Revenue Divisional Officer,
Ananthapur and two others ..
Respondents

O R D E R:

This writ petition is filed to prohibit the 1st respondent from proceeding further pursuant to the Show Cause Notice, dated 21.4.1996 by holding it as incompetent and not maintainable under law.

The brief facts of the case are that the petitioners have been in possession and enjoyment of an extent of Ac.9.79 cents of land situated in S.No.280/2 of Daggumarri, for more than 50 years. This land was originally assigned to China Dandodu and the petitioners are his heirs. The Mandal Revenue Officer, Narpala Mandal, after holding necessary enquiries under the Record of Rights Act, 1971 issued pattadar passbooks and title deeds. In fact, under Section 6 of the Pattadar Passbooks Act, 1971, there is a presumption of correctness of entries in Record of Rights until contrary is proved or until it is otherwise amended in accordance with the provisions of the Act. However, if a person has got right or title in the property, he may institute a suit for declaration of his right and the entry in the record of rights shall be amended in accordance with such declaration. The petitioners submit that so far no suit was instituted and there was no declaration from any competent Court, which warrants amendment of entry in the revenue records. While so, the 3rd respondent and others appear to have moved a representation to the 1st respondent-Revenue Divisional Officer stating that they have been in possession of the land in question and sought

for non-interference with it. The 1st respondent ought to have rejected the representation as misconceived. The Mandal Revenue Officer, who wanted to help the 3rd respondent and others for his personal gains, sent a false report to the 1st respondent contrary to the entries in the revenue records without issuing any notice to the petitioners. Based on the report, the 1st respondent issued the impugned notice to the petitioners for cancellation of pattadar passbooks issued in their favour by competent authority under the Act. The petitioners submitted an explanation stating that the 1st respondent is not vested with any power to cancel their pattadar passbooks. The petitioners also moved a petition before the Joint Collector, who initially granted stay, but later closed the proceedings as the appeal is pending before the 1st respondent. Now, the 1st respondent openly says that though power is not vested in him he would cancel the pattadar passbooks. Hence, the petitioners have filed this Writ Petition.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

The main contention put forth by the learned counsel for the petitioners is that it is only the Mandal Revenue Officer, who is competent to hold an enquiry as contemplated under Section 5(3) of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for brevity “the Act”), but instead of the Mandal Revenue Officer conducting the enquiry, the 1st respondent-Revenue Divisional Officer issued the Show Cause Notice, dated 21.4.1996 and in spite of the fact that a representation was made stating that the

1st respondent has no jurisdiction to issue the Show Cause Notice, he is proceeding with the enquiry directing them to appear before him on 29.9.1997. The learned counsel, in this context, has drawn my attention to Sub-sections 3 and 5 of Section 5 and also Section 9 of the Act.

From the above provisions of law, it is clear that it is only the Mandal Revenue Officer, who shall determine as to whether, and if so in what manner, the record of rights may be amended in consequence therefor, and shall carry out the amendment in the record of rights in accordance with such determination. Hence, this Court is of the view that the very Show Cause Notice dated 21.4.1996 directing the petitioners to appear before the 1st respondent on a subsequent date is definitely without jurisdiction. However, as the petitioners submitted themselves to the jurisdiction of the 1st respondent-Revenue Divisional Officer and offered their explanation stating that he has no jurisdiction, the 1st respondent is hereby directed to pass appropriate orders on the representation furnished by them. However, the said enquiry by the 1st respondent shall be conducted only after notice is served on the petitioners and the 3rd respondent.

With the above direction, the writ petition is disposed of. No costs.

_____

02.02.2007
bcj